

# **Summary Report**

## **Law Enforcement Advisory Panel**

The Law Enforcement Advisory Panel (LE AP) convened via webinar on February 1, 2021 to discuss issues related to fisheries managed by the South Atlantic Fishery Management Council (Council).

Spud Woodward, Council member and Law Enforcement Committee Chair, made introductory remarks. Captain Scott Pearce (FWC) chaired the meeting.

### **Update on FMP Amendments**

Council staff updated the AP on the status of amendments under development and recently submitted for formal review.

### **Implementation of For-Hire Electronic Reporting Requirements**

Karla Gore, NMFS Southeast Regional Office (SERO) staff, presented an overview of the new Southeast For-Hire Electronic Reporting Program. The presentation focused on the South Atlantic component of the program and covered changes to the existing regulations for both charter vessels and headboats and details on the available reporting software. The presentation detailed how the regulatory changes will affect dual permitted vessels (those with permits in more than one region) and those with multiple permits (e.g., Highly Migratory Species and Council-managed species permits). In addition, the program's compliance plan was presented. The latter includes email notifications to permit holders to alert them of late or missing reports, and suspension of permits until reporting requirements are met. A brief overview of NOAA's Enforcement Plan was also discussed, including the request that states with Joint Enforcement Agreements (JEAs) with the agency submit compliance findings through SERO Office of Law Enforcement.

SERO is continuing to conduct educational webinars through the month of February. A reporting phone line to assist fishermen is in place as well as educational toolkits and a dedicated email address.

The LE AP had no comments or recommendations on this topic.

### **Proposed Regulatory Changes in Dolphin Wahoo Amendment 10**

Dolphin Wahoo Amendment 10 includes several actions with enforcement implications. Council staff provided an overview of the development and status of Amendment 10. The LE AP reviewed Action 6 and Actions 8 through 13 in the amendment in detail, providing the following comments and recommendations:

Actions 6 and 8 (Post-season recreational accountability measures)

- In-season adjustments are generally less desirable than regulation changes that are set towards the beginning of a fishing season from an enforcement standpoint.
- In-season measures are enforceable, but there is a lag time to educate fishermen. Communication is important to get notice of a regulatory change to stakeholders in a timely manner, including law enforcement personnel.
- There needs to be a consistent way to let law enforcement know of a temporary federal regulation change due to an accountability measure that goes beyond simple notification via the federal register.

Action 10 (Removal of the operator card requirement)

- In the code of federal regulations, “operator cards” are referred to as “operator permits” so make sure that they are properly referenced in the amendment to avoid confusion when implementing regulation changes.
- Concern was raised by a member of the public over the action, noting that in instances when the operator is not the owner there may not be considerable incentive for that person to report under the new for-hire reporting requirements. The potential to revoke an operator card could provide this incentive and improve reporting compliance.
- The NOAA Office of General Counsel Enforcement Section may have concerns with removal of the operator card requirement as a potential tool.
- While the LE AP initially noted that the operator card requirement could be removed without notable loss to law enforcement capabilities since it has been largely unused for enforcement purposes, it would be an effective tool to help increase compliance with new for-hire reporting requirements particularly if expanded to include other fisheries.
- During Other Business, it was noted that the requirement could be kept for the for-hire fishery but removed for the commercial fishery.
- **Recommendation: Consider extending the operator card to other fishery management plans to help enforce for-hire reporting requirements.**

Action 11 (Reduce the recreational vessel limit for Dolphin)

- The LE AP had no issue with enforceability of vessel limit changes; however, it was noted that consistency within the regulation is helpful for compliance.
- Implementing a vessel limit change through this action could mitigate some of the concerns expressed for the accountability measure actions since these measures would be in place year-round and would reduce the likelihood of the accountability measure being triggered.

Action 13 (Filleting of Dolphin at sea onboard for-hire vessels north of the Virginia/North Carolina border)

- There is no reason to distinguish between species regarding allowing filleting at sea. Allowing this to take place creates an enforcement problem and this practice should not be allowed anywhere.
- Fillets are much easier to hide than fish kept in a whole condition.
- Concern that allowing exemption for Dolphin would carry over to other species and other fisheries. The Council should consider firmly “holding the line” by not allowing this

exemption. To illustrate, an AP member noted that fishermen had expressed support to him for a similar filleting exemption for species in the Snapper Grouper fishery.

- Similarly, it was noted that the Dolphin Wahoo Advisory Panel supported extending this potential exemption to Dolphin caught in the South Atlantic region.
- **The LE AP reiterated their previous recommendation to not allow filleting of Dolphin at sea in the Atlantic EEZ.**

### **Proposed Improvements to the Wreckfish ITQ Program**

Council staff provided an overview of the proposed action in the amendment for which the Council sought the LE AP input. Additionally, Jessica Stephen, SERO staff, provided additional details on the Gulf Reef Fish Program (GRF) and how it is administered.

#### Possible change to offloading hours and VMS requirement:

- The OLE representative saw no problem with expanding offloading hours to extend from 6 AM to 6 PM, as they are specified in the Gulf's program. It was explained that the rationale for these hours is that it works with typical officer schedules and they encompass daylight hours only which helps with officer safety.
- In the Gulf there is a process to approve offloading locations, but the program also requires VMS. LE AP members cautioned against allowing fishermen to submit offloading locations if vessels are not required to carry a VMS (as is currently the case in the South Atlantic). VMS allows law enforcement to "see" a vessel in real time, so VMS should be discussed if the Council wants to look at multiple offloading locations. Too many offloading sites would become unwieldy without VMS.
- LE AP members recommended consistency with the GRF program adding that consistency is key for law enforcement. Additionally, there would already be a system in place if other fisheries were to move to IFQ/ITQ programs. Further, it was acknowledged that consistency would be important to the state of Florida.
- A commercial fisherman representative on the LEAP offered that current offload site/time implementation is ineffective. Fishermen acknowledge the benefits of VMS and are not necessarily opposed in principle; however, they worry that historic fishing areas could get taken away.
- A commercial fishing representative on the LE AP stated that commercial fishermen would support an extension to the offloading hours beyond 6 AM - 6 PM.
- Benefits of VMS for enforcement:
  - Landings location to enforce offloading requirements
  - Enforcement of closed areas
  - Search and rescue
  - Communication between owners and operators
- Preferable alternative from industry would be a hail-in, hail-out instead of VMS but fishery will adjust if it becomes a "necessary evil".

#### Possible changes to wreckfish permit:

- LE would need to be able to verify that the vessel has the needed permits to harvest. An interactive system would work well so a vessel's allocation can be verified.

- The wreckfish permit is there to protect shareholders. LE AP members asked how the shareholder feel about possibly removing the permit. An LE AP member that is a wreckfish shareholder explained that they have shares and use one to three vessels to harvest the fish. These vessels are owned by separate companies who are “agents” of the organization. The shareholders are concerned about how would removing the wreckfish permit and agent language affect their ability to work with other vessels (i.e., how a vessel account would gain access to a share account).
  - It was clarified that if fishermen wanted to use other permitted vessels to harvest wreckfish that could be done different ways: the most restrictive way would be to require the vessel have wreckfish shares. Alternatively, eligibility requirements could be worked into the system to allow a vessel account into the ITQ system. The Council would need to discuss these eligibility requirements. Additionally, landings are tied to the vessel not the shareholder so it will be important to determine how landings would then be attributed to shares.
  - The shareholder on the LE AP did not see any issues with removing the wreckfish permit, but noted that it will be important to discuss this issue with other shareholders.

Cost Recovery:

- It was clarified that cost recovery fees can be used to help reimburse cost of enforcement.

**Proposed Changes to the Structure of the Law Enforcement AP**

During the December 2020 meeting, the Council discussed possibly adding an *ad-hoc* liaison seat to the LE AP to allow a member from another AP to participate as a “subject matter expert” in a meeting of the LE AP as needed. The intent would be to provide an added perspective to discussions where the LE AP may benefit from it. For example, if the LE AP were to (hypothetically) be asked to discuss changes to VMS requirements for the rock shrimp fishery, those discussions would benefit from input from a representative of that fishery who sits on the Deepwater Shrimp AP. The liaison seat would be used on an as-needed basis. Council staff explained the proposal to the LE AP and members responded positively to it and requested clarification on whether the liaison member would have a vote. Council staff noted recent challenges in obtaining applicants to fill the vacant commercial representative seat on the LE AP and solicited recommendations.

**Law Enforcement Officer of the Year (LEOY) Award**

The LEOY annual award program was implement in 2010. Since then, the Council has recognized numerous individuals for outstanding achievements in enforcing fisheries laws and requirements in the South Atlantic region. Council staff requested feedback from the LE AP on whether the program is a good way to acknowledge the efforts of LE personnel in the region, etc. LE AP members pointed out the program should allow for nominations of teams, not just individuals and recommended that the program be continued in 2021.

**Elections**

Capt. Scott Pearce (FWC) was elected Chair and Col. Chisolm Frampton (SCDNR) was elected Vice-Chair (member was absent; acceptance is pending).

**Other Business**

A commercial representative on the LE AP stated his support for maintaining the Operator Card for the for-hire fishery to encourage reporting, especially for vessels where owner is not the operator. He supports removing the requirement for the commercial sector.

**Advisory Panel Members:**

Capt. Scott Pearce, FL FWC, Vice Chair

Capt. Chris Hodge, GADNR\*

Capt. Garland Yopp, NCDMF

Col. Bruce Buckson, Retired\*

Michael Freeman, commercial

Lt. James Bruce, USCG

\*Denotes AP members not in attendance

Col. Chisolm Frampton, SCDNR\*

Lt. Pat O'Shaughnessy, NOAA OLE

Kevin Roberson, recreational

Nickey Maxey, recreational\*

Duane Smith, NOAA GC Enforcement